

PATENT

App. Ser. No.: 10/057,188
Atty. Dkt. No. ROC920010309US1
PS Ref. No.: IBMK10309

REMARKS

This is intended as a full and complete response to the Office Action dated August 11, 2005, having a shortened statutory period for response set to expire on November 11, 2005. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-23 are pending in the application. Claims 1-23 remain pending following entry of this response.

Objection to the Specification

The abstract of the disclosure is objected to for improper language. A replacement abstract consistent with the requirements is provided above.

Claim Rejections - 35 U.S.C. § 102

Claims 1-3, 10, 14-16 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by *Strassburg et al.* (Pub. No.: US 2004/0139125; hereinafter *Strassburg*). Applicants respectfully traverse this rejection.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

In this case, *Strassburg* does not disclose "each and every element as set forth in the claim". For example, regarding claims 1, 15, and 23, *Strassburg* does not disclose starting a node as a one-node cluster in the clustered computer system if no sponsor node is discovered. *Strassburg* requires that a sufficient number of nodes exist to form a cluster (Paragraph 128, line 4: "When enough heartbeat signals are detected to indicate that there are sufficient operating nodes to form a viable cluster..."). Moreover, in paragraph 129, line 15, *Strassburg* describes that "[i]f the node in the

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leader state is unable to find sufficient operating nodes to form a cluster, i.e. quorum, all of the nodes transition to a "dead state." Therefore, *Strassburg* does not disclose starting a node as a one-node cluster in the clustered computer system if no sponsor node is discovered.

Therefore, Applicants submit that claims 1, 15, and 23 and the dependents therefrom are believed to be allowable, and allowance of the claims is respectfully requested.

Allowable Subject Matter

Claims 4-9, 11-13 and 17-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants submit that the objection to claims 4-9, 11-13 and 17-22 is overcome because claims 1, 15, and 23, on which claims 4-9, 11-13, and 17-22 depend respectively, are believed to be allowable. Therefore, allowance of claims 4-9, 11-13, and 17-22 is respectfully requested.

Conclusion

Having addressed all issues set out in the office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,



Randol W. Read
Registration No. 43,876
PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Attorney for Applicant(s)